

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MATTHEW JOSEPH SIKORA JR.,)	8:08CV382
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
CLANDESTINE)	
ATTACKERS/ASSAILANTS, et al.,)	
)	
Defendants.)	

This matter is before the court on Plaintiff’s Motion for Leave to Appeal In Forma Pauperis (“IFP”) (filing no. [14](#)) and Motion to Appoint Counsel (filing no. [15](#).) As the court has previously informed Plaintiff, the court cannot routinely appoint counsel in civil cases. In [Davis v. Scott, 94 F.3d 444, 447 \(8th Cir. 1996\)](#), the Eighth Circuit Court of Appeals explained that “[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel. . . . The trial court has broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel” *Id.* (quotation and citation omitted). No such benefit is apparent here. The request for the appointment of counsel is therefore denied without prejudice to reassertion before the Eighth Circuit.

Plaintiff also seeks leave to appeal IFP. (Filing No. [14](#).) On November 5, 2008, the court dismissed Plaintiff’s claims without prejudice and entered judgment against Plaintiff. (Filing Nos. [8](#) and [9](#).) After the denial of his Motion for Reconsideration, Plaintiff filed a timely Notice of Appeal of the court’s Judgment. (Filing No. [13](#).) Plaintiff is not a prisoner and has previously been granted leave to proceed IFP in this matter. (Filing No. [7](#).)

As set forth in [Federal Rule of Appellate Procedure 24\(a\)\(3\)](#):

(a) Leave to Proceed in Forma Pauperis

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless the district court – before or after the notice of appeal is filed– certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis. In that event, the district court must state in writing its reasons for the certification or finding.

The court finds that because Plaintiff proceeded IFP in the district court, he may now “proceed on appeal in forma pauperis without further authorization.”

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Motion for Leave to Appeal In Forma Pauperis (filing no. [14](#)) is granted.
2. Plaintiff’s Motion to Appoint Counsel (filing no. [15](#)) is denied without prejudice to reassertion before the Eighth Circuit.
3. The Clerk of the court shall provide the Court of Appeals with a copy of this Memorandum and Order.

January 15, 2009.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge